

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23476 of 2005

Dated 1st December 2005

Between:

M/s.Nathmal Bhikulal Parik & Company

...Petitioner

and

The Controlling Authority under

Payment of Gratuity Act & Asst

Commissioner of Labour, Adilabad

and another

...Respondents

ORDER:

The 2nd respondent filed an application before the

1st respondent for payment of gratuity from the petitioner. The same was taken up as a set of P.G.Cases with independent numbers. One of them was P.G.Case No.111 of 1994. On 14.08.2001, the 1st respondent passed an order, in respect of one of the employees, directing that a sum of Rs.8,307/- must be paid.

Petitioner filed an application for setting aside the said order, on the ground that they were not heard before passing the same. The application was numbered as I.A.No.6 of 2004. Petitioner states that his Advocate sent a telegram on 28.09.2004, requesting for an adjournment in the entire batch of cases. The 1st respondent passed an order on 02.06.2005, rejecting the same, on the ground that the petitioner did not attend the subsequent dates of hearing.

Learned counsel for the petitioner submits that after a telegram was issued on 28.09.2004, the petitioner and their counsel before the 1st respondent, were awaiting the information as to next date of hearing. But no such notice was issued.

The 2nd respondent filed a counter affidavit. It is stated that the petitioner did not avail the opportunity, despite several adjournments, and left with no alternative the 1st respondent passed the impugned order.

Learned counsel for the 2nd respondent submits that the petitioner is dragging the matter on one pretext or the other denying the legitimate claim of the 2nd respondent and his clients.

Originally, an order was passed way back on 14.08.2001, determining the liability of the petitioner to pay the gratuity. Either on account of pressure of work or lack of proper comprehension, the then Presiding Officer passed an order. The petitioner filed an application for setting aside the said order. They claim to have issued a telegram, dated 28.09.2004, seeking adjournment. This court would not have interfered with the matter, had any order been passed on 28.09.2004 itself, or before that date, in case, the request was rejected. The record discloses that the matter was taken up on subsequent dates of hearing also. The contention of the petitioner that they were not issued any notices of hearing, remains un rebutted.

Therefore, the writ petition is allowed and the order under challenge is set aside. To avoid further complications in the matter, it is directed that the petitioner or his counsel shall appear before the 1st respondent on 22.12.2005, even if no notices of hearing are served on them. It is also made clear that for the subsequent dates of hearing, it shall be the duty of the petitioner to note down or ascertain the same and that the 1st respondent shall not be under obligation to issue notices for every date of hearing. The

1st respondent shall dispose of the matter within two months from the date of receipt of a copy of this order.

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01.12.2005

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